

1 HONORABLE RONALD B. LEIGHTON
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10 UNITED STATES DISTRICT COURT
11 WESTERN DISTRICT OF WASHINGTON
12 AT TACOMA

13 TEDDY MORRIS,
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Petitioner,

v.

ROB McKINNA, et. al.,
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Respondents.

Case No. C09-5345RBL

ORDER

17 THIS MATTER comes on before the above-entitled Court upon Petitioner's Notice of Appeal
18 [Dkt. #22] and Motion for Appointment of Appellate Counsel [Dkt. #23]. Having considered the entirety
19 of the records and file herein, the Court finds and rules as follows:

20 The filing of a Notice of Appeal in a 28 U.S.C. § 2254 proceeding requires this Court to determine
21 whether a certificate of appealability shall issue. 28 U.S.C. § 2253(c)(1). For the reasons stated in the
22 Report and Recommendation [Dkt. #18], this Court declines to issue a certificate of appealability because
23 the Petitioner has failed to make "a substantial showing of the denial of a constitutional right." 28 U.S.C.
24 § 2253(c)(2). The Clerk shall forward Petitioner's Motion for Appointment of Appellate Counsel [Dkt.
25 #23] to the United States Court of Appeals for the Ninth Circuit.

26 **IT IS SO ORDERED.**
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1 The Clerk shall send uncertified copies of this order to all counsel of record, and to any party
2 appearing pro se.

3 Dated this 5th day of January, 2010.

Ronald B. Leighton
RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE